

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

DATE: April 19, 2010

JUDGE
LEONARD DAVIS

COURT REPORTER
Shea Sloan

Law Clerks: Natalie Alfaro

SOVERAIN SOFTWARE, LLC

vs.

NEWEGG, INC. LTD

CIVIL ACTION NO: 6:07-CV-511

**Motion Hearing
(Dkt #326, 305 & 306)**

ATTORNEYS FOR PLAINTIFF	ATTORNEYS FOR DEFENDANTS
Carl Roth (Roth Firm) Brendan Roth (Roth) Amanda Abraham (Roth) Tom Giannetti (Jones Day) Michael Smith (Siebman Reynolds) Katherine Wolanyk - Client Representative	Dick Sayles (Sayles Werbner) Mark Strachan (Sayles) Kent Baldauf (The Webb Lawfirm) Mira Wolff (Newegg) Lee Cheng (Newegg)

On this day, came the parties by their attorneys and the following proceedings were had:

OPEN: 1:35 pm

ADJOURN: 2:50 pm

	(Note: Mr. Kenneth Adamo in Europe attempting to get through the volcanic ash to make his way to East Texas).
1:35 pm	Court will hear Soverain's Motion to Exclude, Docket #326.
	Mr. Giannetti presented Soverain's Motion to Exclude the Belatedly-Produced CompuServe Documents (Dkt #326) .
	Mr. Baldauf responded. Mr. Giannetti replied.
	Court addressed the parties and new documents and computer code will be excluded. Court has previously ruled that manuals can be considered. Court holds that Trevor's testimony as a fact witness needs to be corroborated. Court will allow either party to present him outside the presence of the jury, can do so during the trial. Court will allow Trevor to be a fact witness, but he will not be expressing any opinions.

DAVID J. MALAND, CLERK

FILED: 4.19.2010

BY: *Rosa L. Ferguson*, Courtroom Deputy

	Mr. Giannetti presented Soverain's Motion in Limine (Dkt #305) . Mr. Giannetti presented Item #1 (acquisition of the patents-in-suit). Mr. Baldauf responded. Court grants as to bankruptcy sale.
	Mr. Giannetti presented Item #8 (undisclosed expert testimony). Mr. Baldauf responded. Mr. Giannetti responded as to the prejudice. Court ruled that the testimony will not vary as to Claim 1 and denies motion, but anything other than Claim 1 will be excluded.
	Mr. Giannetti presented Item #9 and parties are in agreement. Granted as agreed.
	Mr. Giannetti presented Item #12 (reliance on Transact as a non-infringing alternative). Mr. Baldauf responded. Court denied motion.
	Mr. Giannetti presented Item #13 (Reliance on Design-Arounds as non-infringing alternatives).
	Mr. Baldauf responded. Mr. Giannetti replied. Court denied motion.
	Mr. Gianniti addressed the Court and defendant has withdrawn opposition on #14. Parties agreed.
	Mr. Giannetti presented Item #15 (Reliance on E-Commerce Software as Data Points). Mr. Baldauf responded. Mr. Giannetti responded. Court grants, without prejudice to approaching bench first.
	Mr. Baldauf presented Newegg's Motion in Limine (Dkt #306) . Mr. Baldauf presented Item #2 (Preclusion of Evidence, Statement ans argument referring or relating to licenses or licensees of the Patents-in-Suit). Mr. Giannetti responded. Mr. Baldauf replied. Mr. Giannetti further responded. Court denies motion.
	Mr. Sayles addressed the Court on the lump-sum settlements. Mr. Giannetti responded as to the amount of the settlements. Court addressed the parties and would like parties to discuss. Mr. Giannetti prefers no terms of the settlements at all. Court further clarified the issue.
	Mr. Baldauf addressed the Court on the expert report and the dependent claim. Mr. Baldauf addressed the Court that one of the experts is a former law partner and would like for them to agree not to mention. Mr. Giannetti addressed the Court. If not in report, not coming in.
	Ms. Frost addressed the Court objection by representation of Jones Day.
	Court addressed the parties on the trial schedule. Court addressed the parties on refreshments for the jury throughout the week.
	Ms. Wolanyk reported to Court on settlement. Mr. Cheng addressed the Court and responded as to settlement. Ms. Wolanyk further responded. Mr. Cheng responded. Court and parties discussed the negotiations. Court encouraged parties to talk. Court and parties continued to discuss offers and settlements.
	Court addressed the parties on working something out. Court asked the two parties to sit down this afternoon and communicate with the mediator.
2:50 pm	There being nothing further, Court adjourned for the day.